

**REMARKS/ARGUMENTS**

By this Amendment, claim 18 is canceled, and claims 14, 17, 19 and 21 are amended. Claims 14-17 and 19-27 are pending.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Applicants gratefully acknowledge the statement in the Office Action at page 9 that claims 18-23 and 26-27 recite allowable subject matter. Accordingly, the limitations of 18 are incorporated into base claim 14 and claim 18 is canceled.

**Claim Rejections – 35 U.S.C. § 112**

Claims 14-27 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

a and b) Claim 14 – “second”

The limitations “second electrode layer” and “second passivation layer” in claim 14 allegedly lack antecedent basis in the claim.

The term “second” is not intended to convey that there necessarily exists a previously introduced “first electrode layer” or a “first passivation layer”. Rather, the term “second” is intended to identify these structures as components of the second electrode device (as opposed to the first electrode device).

c) Claim 27 – “layer structures”

The expression “layer structures” is clear when read in light of the specification at, e.g., the paragraph bridging pages 6-7:

The layer structures on which modulation of the field transconductance into the channel takes place are for example formed by regions of changed (decreased or increased) thickness in the passivation layer. Advantageously, these indented or protruding layer structures can be generated by a simple etching process. The form of the layer structures can be set by masking. Protruding layer structures are in particular preferred when forming the passivation layer with materials of relatively high dielectric constants. As an alternative, the layer structures can include regions which comprise at least one material that differs from that of the surrounding passivation layer, which material is in particular characterised by a changed dielectric constant. Both forms of layer structures, i.e. the thickness variation and the materials variation, can be provided in combination.

As noted in MPEP 2173.02, “[i]f one skilled in the art is able to ascertain” the meaning of claimed terms “in light of the specification, 35 U.S.C. 112, second paragraph, is satisfied.”

Accordingly, reconsideration and withdrawal of the indefiniteness rejection are respectfully requested.

#### **Claim Rejections – 35 U.S.C. § 102**

Claims 14 and 18 (17) stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by WO 00/69565 A1 (Medoro). This rejection is respectfully traversed.

It is assumed that the reference to claim 18 is a typographical error, since only claims 14 and 17 are addressed in the body of the rejection, and claim 18 is said to recite allowable subject matter at page 9 of the Office Action.

The rejection of claim 14 is obviated by the incorporation of the limitations of allowable claim 18 into claim 14.

With regard to claim 17, it is emphasized that this claim refers to the embodiment of Fig. 1C of the present application. Amended claim 17 comprises the features of the first and second area-like electrode layers with a closed electrode surface, i.e., the electrodes on the upper and lower side of the channel are non-structured electrode areas. The structuring of the electrical field in the channel is obtained by structuring the passivation layer as noted in previous and amended claim 17 and described with reference to Fig. 1C in the description (page 12, paragraph 2). Contrary to the subject of amended claim 17, the Medoro reference does not disclose the combination of area-shaped electrodes with a structured passivation layer. In particular, the passivation layer R1 disclosed by Medoro does not include a structuring as claimed.

Accordingly, reconsideration and withdrawal of the anticipation rejection are respectfully requested.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 14-17 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 6,685,812 B2 (Miles) in view of Schnelle et al. (Langmuir 1996, 12, 801-809), U.S. Patent No. 6,352,838 B1 (Krulvitch) and U.S. Patent No. 6,113,768 (Fuhr). Claim 25 stands rejected as being obvious over the same combination of references plus U.S. Patent No. 6,787,018 B1 (Miles). These rejections are respectfully traversed.

The incorporation of the limitations of allowable claim 18 into base claim 14 obviates the rejections to the extent they applied to claims 14-16 and 24-25.

Moreover, the proposed combination of reference teachings does not meet the features of claim 17. Alone or in combination, the references do not disclose the features of the first and second area-like electrode layers with a closed electrode surface, i.e., the electrodes on the upper and lower side of the channel are non-structured electrode areas.

Accordingly, reconsideration and withdrawal of the anticipation rejection are respectfully requested.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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Please charge or credit our Account No. 03-0075 as necessary to effect entry and/or ensure consideration of this submission.
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